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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,093	03/26/2004	Steven Davis	20114/00101	9722

7590 08/19/2009  
Fay Kaplun & Marcin, LLP  
Suite 702  
150 Broadway  
New York, NY 10038

EXAMINER
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ANDERSON, JOHN A

ART UNIT	PAPER NUMBER
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3696

MAIL DATE	DELIVERY MODE
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08/19/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,093	<b>Applicant(s)</b> DAVIS ET AL.	
	<b>Examiner</b> JOHN A. ANDERSON	<b>Art Unit</b> 3696	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/12/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In the amendment filed 05/18/2009, claims 1-21 are pending and are presented for examination.

### **Information Disclosure Statement**

2. The information disclosure statement dated 08/12/2004 has been considered.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
  
A person shall be entitled to a patent unless -  
  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

4. Claims 1-5, 8-12 rejected under 35 U.S.C. 102 (e) as being anticipated by Dunn J PET al (PGPub 2005/0171899).
5. As regards claim 1, Dunn J.P. discloses a method, comprising the steps of:
  - scanning each of a plurality of checks to generate digitized images thereof, the plurality of checks including at least one of non-consumer checks and consumer checks;[0058]
  - generating a master file including a record for each check, each record including the digitized image of the corresponding check and a data portion including data obtained from a MICR line of the corresponding check;[0092]
  - sorting the records into first and second sub-files as a function of at least one of the digitized images and the data portions, the first sub-file including only the non- consumer checks and the second sub-file including only the consumer checks;[0062]
  - processing the records included in the first sub-file according to a non-consumer check procedure to settle transactions referenced by each of the checks corresponding to the records in the first sub-file; and [0073]
  - processing the records included in the second sub-file according to one of a consumer check procedure and a non- consumer check procedure to settle

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transactions referenced by each of the checks corresponding to the records in the second sub-file.[0073]

6. As regards claim 2, Dunn J.P. discloses wherein the first and second sub-files are processed separately. [0091]
7. As regards claim 3, Dunn J.P. discloses wherein the digitized images of the checks include images of at least one of a front and a rear of the checks. [0082]
8. As regards claim 4, Dunn J.P. discloses wherein the data portion further includes an amount of the check derived from the corresponding digitized image. [0063]
9. As regards claims 5 and 19, Dunn J.P. discloses further comprising the step of verifying the sorting step using information stored in a database of debtors. [0082]
10. As regards claim 8, Dunn J.P. discloses further comprising the step of: storing the data portion of each of the records in a database, the database being organized by debtors and each of the records corresponding to one of the debtors. [0066]

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11. As regards claim 9, Dunn J.P. discloses wherein the database includes one of a debtor's name, a debtor's account number, a debtor's address, a debtor's ABA number, and a debtor's account payable amount. [0086]
12. As regards claim 10, Dunn J.P. discloses wherein the consumer check procedure includes processing of the second sub-file to forward it to a clearing network for a settlement. [0073]
13. As regards claim 11, Dunn J.P. discloses wherein the non-consumer check procedure includes electronically submitting the first sub-file to a financial institution, the financial institution generating an image replacement document for each of the non-consumer checks and submitting the image replacement document for a settlement. [0073]
14. As regards claim 12, Dunn J.P. discloses wherein the non-consumer check procedure includes electronically submitting the first sub-file to a first financial institution, the first financial institution forwarding the first sub-file to a second financial institution for settlement. [0073]
15. As regards claim 16, Dunn J.P. discloses a system for depositing checks, comprising:
  - a database storing information corresponding to debtors;[0066]

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- a master file including a set of records for a plurality of checks received from the debtors, each record corresponding to at least one of the checks, each record including a digitized image of the corresponding check and data obtained from a MICR line of the corresponding check, wherein each record is categorized as corresponding to one of a non- consumer check and a consumer check, the categorization being a function of at least one of the digitized image, the data and the information in the database;[0092]
- a first subfile including a first subset of the records, the first subset including records corresponding to checks categorized as non-consumer checks; and [0073]
- a second subfile including a second subset of the records, the second subset including records corresponding to checks categorized as consumer checks. [0073]

16. As regards claim 17, Dunn J.P. discloses wherein the records included in the first subfile are processed according to a non-consumer check procedure to settle transactions referenced by each of the checks corresponding to the records in the first subfile. [0073]

17. As regards claim 18, Dunn J.P. discloses wherein the records included in the second subfile are processed according to a consumer check procedure to settle

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transactions referenced by each of the checks corresponding to the records in the second subfile. [0073]

18. As regards claim 20, Dunn J.P. discloses wherein the records of the master file are displayed to a user. [0146]

19. As regards claim 21, Dunn J.P. discloses wherein the database is updated using the data obtained from the check. [0086]

### **Claim Rejections - 35 USC § 102**

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



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21. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoutenburg et al (US PG PUB No: 2007/0029376 A1).
22. As regards claim 13, Stoutenburg discloses an image capturing device configured to capture a digitized image of a check, [0099, In some embodiments, display 252 supports electronic signature capture to facilitate processing of electronic forms of payment. In such embodiments, display 252 comprises a digitizer having at least eight-bit A/D conversion detail]. Stoutenburg discloses a processor configured to extract data from the digitized image of the check and further configured to categorize the check as at least one of a non-consumer check and a consumer check as a function of at least one of the digitized image and the extracted data, wherein the processor stores the digitized image and the data in a first file when the check is categorized as a non-consumer check and in a second file when the check. [0101, CPU 305 includes an A/D converter 314 for accessing analog data from a touch-screen 362 and converting it to digital data compatible with CPU 305.]
23. As regards claim 14, Stoutenburg discloses wherein the digitized image includes a MICR line from which the data is extracted. [0039, it is scanned by the imager and MICR reader for content.]

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24. As regards claim 15, Stoutenburg discloses wherein the processor categorizes the Check based on the position of the data on the MICR line. [0235, In some embodiments, account information, and institution information derived by the MICR reader from the check is transferred from POS device 130 to checking host 1610. In turn, checking host 1610 compares the account and institution information against a list of known bad and/or suspicious accounts. Thus, where comparison of the information indicates that the check is either bad, or possible bad, authorization can be denied.]

### **Claim Rejections - 35 USC § 103**

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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26. Claims 6-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn J P et al (PGPub 2005/0171899) and in view of Stoutenburg et al (US PGPub No. :2007/0029376).

27. As regards claim 6, Dunn discloses scanning each of a plurality of checks to generate digitized images thereof, the plurality of checks including at least one of non-consumer checks and consumer checks;[0058]

Dunn does not disclose further comprising the step of:

displaying each of the records in the master file, the display including one of the data portion, a snippet of the digitized image, a digital amount of the check and a categorization of the check.

Stoutenburg discloses further comprising the step of "displaying each of the records in the master file, the display including one of the data, portion, a snippet of the digitized image, a digital amount of the check and a categorization of the check; [0190, Upon receiving the approval, it is displayed on display 210 and/or display 252 and the value associated with the check is provided to the customer (block 860). Providing such value can include having the merchant disperse the value from an available cash register or other source, or in some embodiments, providing the value directly from POS device 130 via a cash dispersal mechanism].

It would have been obvious for a person of ordinary skill in the art at the time of the invention was made to use Stoutenburg in the device of Dunn. The

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motivation would have been to verify the accuracy of the data entered in the computer.

28. As regards claim 7, Dunn discloses scanning each of a plurality of checks to generate digitized images thereof, the plurality of checks including at least one of non-consumer checks and consumer checks;[0058]

Dunn does not disclose wherein a user is permitted to alter the displayed record.

Stoutenburg discloses wherein a user is permitted to alter the displayed record.

[0061, In such an embodiment, display reader interface 248 provides an interface for receiving input via the touch-screen.]

It would have been obvious for a person of ordinary skill in the art at the time of the invention was made to use Stoutenburg in the device of Dunn. The motivation would have been to update data that is not current.

### ***Response to Arguments***

Applicant's arguments filed 05/18/2009 have been fully considered but they are not persuasive. The claim limitation refers to consumer and non-consumer checks and in so doing, all possible checks are included. The use of the words consumer and non-consumer does not render this application novel. The devise , method and process used for sorting checks is the same for both consumer and non-consumer checks. This same devise , method and process is also used and applied in the cited prior art.

Dunn makes it very clear that an electronic system is used to read the account number, routing transit number, and dollar amount and check number from the magnet ink character recognition information printed on the check. It is this information and process that Dunn [0007] [0062] [0016] [0057] [0058] [0074] and Stoutenburg [0078] cites in their prior art, that is used to sort and determine the consumer and non-consumer checks the applicant refers to.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN A. ANDERSON whose telephone number is (571)270-3327. The examiner can normally be reached on Monday through Friday 8:00 to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John A Anderson/

Examiner, Art Unit 3696

John A Anderson

Examiner

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/J. A. A./

Examiner, Art Unit 3696 08/12/2009

/Daniel S Felten/

Primary Examiner, Art Unit 3696